

EXHIBIT 1

1 UNITED STATES DISTRICT COURT

2 CENTRAL DISTRICT OF CALIFORNIA

3 NIRVANA L.L.C., Washington)

4 Limited Liability Company,) Case No.

5 Plaintiff,) 2:18-cv-10743

6 vs.) JAK-SK

7 MARC JACOBS INTERNATIONAL)

8 L.L.C., a Delaware Limited)

9 Liability Company; SAKS)

10 INCORPORATED, d/b/a SAKS)

11 FIFTH AVENUE, a Tennessee)

12 Corporation; NEIMAN MARCUS)

13 GROUP LIMITED, L.L.C. a)

14 Delaware Limited Liability)

15 Company; and Does 1 through)

16 10,)

17 Defendants.)

18 **REVISED**

19 DEPOSITION OF DAVID ERIC GROHL

20 TAKEN ON

21 TUESDAY, SEPTEMBER 10, 2019

22 Reported by:

23 BRENDA R. COUNTZ, RPR-CRR

24 CSR NO. 12563

25 Job No. 167662

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10 Deposition of DAVID ERIC GROHL taken at
11 the law firm of Kelley Drye & Warren LLP, 10100
12 Santa Monica Boulevard, 23rd Floor, Los Angeles,
13 California 90067, on Tuesday, September 10,
14 2019, before Brenda R. Countz, CSR No. 12563.
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1 APPEARANCES OF COUNSEL:

2 FOR THE PLAINTIFF:

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13 FOR THE DEFENDANTS MARC JACOBS INTERNATIONAL LLC,
14 SAKS INCORPORATED, d/b/a SAKS FIFTH AVENUE and
15 NEIMAN MARCUS GROUP LIMITED, LLC:

16 KELLEY DRYE & WARREN

17 BY: MICHAEL ZINNA, ESQ.

18 GEOFFREY CASTELLO, ESQ.

19 One Jefferson Road

20 Parsippany, New Jersey 07054

I N D E X

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DAVID ERIC GROHL	MR. ZINNA	5

E X H I B I T S

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Exhibit 2	Complaint	8
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Exhibit 11	Articles of Incorporation of Nirvana, Inc.	43

1 LOS ANGELES, CA - TUESDAY, SEPTEMBER 10, 2019

2 10:30 A.M.

3
4 DAVID ERIC GROHL,

5 having been first duly sworn, was

6 examined and testified as follows:

7
8 MR. ZINNA: Good morning, everyone.

9 I'm Mike Zinna from Kelly Drye & Warren. I'm

10 here representing Marc Jacobs, Neiman Marcus and 10:29:04AM

11 Saks.

12 EXAMINATION

13 BY MR. ZINNA:

14 Q. Could you please state your name for
15 the record? 10:29:11AM

16 A. David Eric Grohl.

17 Q. Have you ever been deposed before?

18 A. I have.

19 Q. About how long ago?

20 A. 2002, 2001. 10:29:18AM

21 Q. Okay, I can give you a refresher, some
22 ground rules to make sure this moves smoothly and
23 quickly. It's really just a series of questions.

24 I'll ask the questions and you'll provide

25 answers. 10:29:41AM

1 Q. Moving to the left, does that appear to
2 be the front of the T-shirt?

3 A. On the left?

4 Q. Yes.

5 A. Yes. 10:43:39AM

6 Q. And do you see the word "Nirvana" above
7 the smiley face?

8 A. I do.

9 Q. Are you familiar with the particular
10 font that that is written in? 10:43:48AM

11 A. I am.

12 Q. And do you know who designed that font?

13 A. No.

14 Q. Could it have been you?

15 A. No. 10:43:55AM

16 Q. Could it have been Mr. Novoselic?

17 A. I don't know.

18 Q. Could it have been Mr. Cobain?

19 A. I don't know.

20 Q. And underneath that we have an image. 10:44:03AM

21 Do you see that?

22 A. I do.

23 Q. And can you describe that image,
24 please?

25 A. A smiley face with Xs over the eyes and 10:44:17AM

1 a tongue sticking out.

2 Q. Thank you. And who designed that face?

3 A. I don't know.

4 Q. Could it have been you?

5 A. No. 10:44:31AM

6 Q. Could it have been Mr. Novoselic?

7 A. I don't know.

8 Q. Could it have been Mr. Cobain?

9 A. I don't know.

10 Q. So if we turn back to page four of 24, 10:44:51AM
11 please, do you see paragraph 13?

12 A. I do.

13 Q. And can you read for me the first
14 sentence of that paragraph?

15 A. "Among the copyrighted works owned by 10:45:18AM
16 Nirvana is a smiley face design and logo,
17 copyright registration number VA 0000564166,
18 created by Kurt Cobain in about 1991 and
19 registered for copyright in 1993."

20 Q. Thank you. But you have no personal 10:45:38AM
21 knowledge of whether that statement is correct or
22 not?

23 A. No.

24 Q. Okay, so by 1991 Nirvana, Inc. had been
25 incorporated through articles of incorporation 10:46:08AM

DECLARATION

I hereby declare I am the deponent in the within matter; that I have read the foregoing deposition and know the contents thereof, and I declare that the same is true of my knowledge, except as to the matters which are therein stated upon my information or belief, and as to those matters, I believe it to be true.

I declare under the penalties of perjury of the State of California that the foregoing is true and correct.

Executed on the _____ day of _____, 2019, at _____, California.

W I T N E S S

1 STATE OF CALIFORNIA) SS
2 COUNTY OF LOS ANGELES)

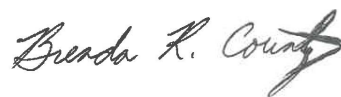
3 I, BRENDA R. COUNTZ, Certified Shorthand
4 Reporter No. 12563 for the State of California,
5 do hereby certify:

6 That prior to being examined, the
7 witness named in the foregoing deposition was
8 duly sworn to testify the truth, the whole truth,
9 and nothing but the truth;

10 That said deposition was taken down by
11 me in shorthand at the time and place therein
12 named and thereafter transcribed and that the
13 same is a true, correct, and complete transcript
14 of said proceedings.

15 Before completion of the deposition,
16 review of the transcript [] was [] was not
17 requested. If requested, any changes made by the
18 deponent during the period allowed are appended
19 hereto.

20 I further certify that I am not
21 interested in the outcome of the action.
22 Witness my hand this 20th day of September, 2019.

23 
24

25 _____
Brenda R. Countz, CSR No. 12563

ERRATA SHEET

Case Name:

Deposition Date:

Deponent:

Pg.	No.	Now Reads	Should Read	Reason
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Signature of Deponent

SUBSCRIBED AND SWORN BEFORE ME

THIS ____ DAY OF _____, 2019.

(Notary Public) MY COMMISSION EXPIRES: _____